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13 May 2011

DISPOSITION MEMORANDUM**SUBJECT:** (U//AIUO) Possible Violation of Post-Employment Restriction**CASE:** 2010-09556-IG**INTRODUCTION:**1. ~~(S)~~ On 20 January 2010, [REDACTED]

(b)(3)

[REDACTED] National Clandestine Service (NCS) advised the Office of Inspector General (OIG) that [REDACTED] Agency retiree [REDACTED] is running a business that has a number of Chinese clients. [REDACTED] said [REDACTED] business, [REDACTED] is based in the Washington D.C. area and [REDACTED] travels to China. [REDACTED] stated he has no knowledge of whether [REDACTED] sought counsel from the Office of General Counsel (OGC) concerning his post-retirement employment. [REDACTED]

(b)(3)
(b)(6)

(b)(3)

(b)(3)
(b)(3)

(b)(3)

(b)(3)

2. ~~(C)~~ [REDACTED] retired from the Agency in February 2006. At the time of his retirement, [REDACTED] was an Agency Senior Intelligence Service (SIS) officer. [REDACTED]

(b)(3)
(b)(6)

(b)(3)

(b)(3)

[REDACTED] In January 2010, [REDACTED] reported that [REDACTED] was running a business "that had a lot of foreign clients." At question is whether [REDACTED] between the time he retired in [REDACTED] and the time that his final restrictions would have expired in [REDACTED] violated any of his post employment restrictions, specifically [REDACTED] restrictions forbidden by Title 18 U.S.C. § 207 (a)(2), Title 18 U.S.C. § 207 (f), Section 402 of the Intelligence Authorization Act of 1997 and or Agency Regulation [REDACTED] i.e., did he:

(b)(3)

(b)(1)

(b)(3)

(b)(3)

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- Make any communication or appearance before CIA seeking official action on behalf of a third party within two years of his separation? (Title 18 U.S.C. § 207 (a)(2)) (Exhibit A.)
- Sign a "Section 402 agreement" IAW the Intelligence Authorization Act of 1997? (Section 402 of the Intelligence Authorization Act of 1997) [redacted] (Exhibits B and C.) (b)(3)
- Represent or advise a foreign government or foreign political party within three years of his separation (Section 402 of the Intelligence Authorization Act of 1997) (Exhibits B and C.)

PROCEDURES AND RESOURCES

3. (S) ~~(S)~~ OIG interviewed [redacted] the OGC Ethics Counsel, Administrative Law Division (ALD); [redacted] [redacted] and the Subject of this investigation. OIG reviewed [redacted] and OGC records regarding Subject and reviewed internet information and corporate information supplied by Subject regarding his company. (b)(6) (b)(3)

FINDINGS

4. (S) ~~(S)~~ (b)(3) stated he did not know if [redacted] client list included foreign persons, foreign governments, or foreign corporations. He opined that [redacted] clients were (b)(3) primarily large US-based companies. As an example of the type of client [redacted] was working with, (b)(3) advised that the current head of the [redacted] (b)(6) told him that that [redacted] (b)(6) is one of (b)(3) clients. (b)(3) (b)(6)

5. (S) ~~(S)~~ (b)(3) said he believed that [redacted] (b)(3) began his consulting activities shortly after he retired. He said [redacted] (b)(3) and he retired from the Agency shortly thereafter. According to (b)(3) [redacted] (b)(6) [redacted] (b)(3) retired and went to work with [redacted] (b)(6) shortly after (b)(3). He said [redacted] (b)(6) and another former (b)(6) who was a former chief of the [redacted] (b)(6) also hired on with [redacted] (b)(6) in 2005. (b)(3) opined the hiring of [redacted] (b)(3) was connected to [redacted] (b)(3) a former Agency [redacted] (b)(3) [redacted] (b)(3)

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(b)(3) opined that (b)(3) gained employment with (b)(6) by way of their connection with (b)(3) and they eventually took over control of (b)(6)

(b)(3) 6. (S) (b)(3) said, though he did not know who (b)(6) has as its clients, he believed that (b)(6) relationship with the Chinese might better be described as an employer to employee relationship than a company to client relationship. He explained that (b)(6) consults for large US companies regarding risk assessments, in country dangers, and other matters. He opined that to provide that type of due diligences consulting, i.e., to assess threats, obtain telephone records, conduct surveillance, and to do other things of that nature, (b)(6) needed personnel who were indigenous to the environment. As an example, he stated that (b)(6) hires Chinese employees (b)(1)

(b)(1)

(b)(6)

(b)(3)

(b)(1)

(b)(3)

(b)(3) 7 (S) (b)(3) direct interface with (b)(3) or (b)(6) and (b)(3)

(b)(3) However, (b)(3) advised that (b)(3) is

(b)(1)

(b)(3)

(b)(6)

(b)(1)

(b)(3)

(b)(1)
(b)(3)

9. ~~(S)~~ (b)(3) Ethics Counsel, ALD/OGC, advised that because (b)(3) was an SIS Officer (b)(3) he would have been a "designated employee" under Section 402 of the Intelligence Authorization Act of 1997; and as such, he should have executed a Post Employment Agreement and a Section 402 Agreement with OGC. She said these documents should be stored in OGC holdings. (b)(3) explained that the list of designated persons is revised yearly, but stated she was certain that (b)(3) is an appropriately graded position (an SIS position) that holds a perennial spot on the required Section 402 designation list.

10. ~~(S)~~ (b)(3) advised that the OGC Ethics Officer during (b)(3) tenure (b)(3) and who was (b)(3) particular OGC Ethics Officer at the time of his retirement, had also retired (b)(3) retired on (b)(6) (b)(3) offered to conduct a due diligence search for any information concerning (b)(3) and said she would forward her findings to OIG.

11. ~~(S)~~ (b)(3) On 16 April 2010, (b)(3) advised OIG that OGC had "very little to report" regarding information concerning any post employment agreements (b)(3) had, or had not, signed with the Agency. She advised, "No [OGC] attorney has for (b)(3)ny advice given to, or about, this gentleman." A package sent to OIG by (b)(3) office indicated that OGC had no post employment letter, no 402 agreement, and no form 879s on file for (b)(3)

12. ~~(S)~~ (b)(3)

(b)(1)
(b)(3)

~~SECRET~~13. ~~(S)~~

(b)(1)

(b)(3)

~~(b)(3)~~ said that ~~(b)(3)~~ runs a consulting business that consults with major US firms, such as Dow Jones and other Fortune 500 companies. He advised that many major US companies have people [foreign national employees] who come to the US to work, and ~~(b)(3)~~ company uses indigenous contacts and contract employees to conduct due diligence research for their clients regarding these foreign employees.

14. ~~(S)~~

(b)(1)

(b)(3)

15. ~~(S)~~

(b)(1)

(b)(3)

16. ~~(S)~~

(b)(1)

(b)(3)

17. ~~(S)~~ On 8 November 2010, ~~(b)(3)~~ was interviewed by OIG. ~~(b)(3)~~ advised he is a minority part owner of ~~(b)(6)~~. He said that ~~(b)(6)~~ a former ~~(b)(6)~~ with the FBI; ~~(b)(6)~~ a person with a background in business and with the US Department of State; and ~~(b)(6)~~ a person who ~~(b)(3)~~ has a background in business, are the other owners of ~~(b)(6)~~. According to ~~(b)(6)~~ was established on 1 March 2006, when he and his partners purchased ~~(b)(6)~~ from ~~(b)(3)~~ both former Agency

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(b)(3) (b)(6) employees. (b)(3) said that (b)(6) basic mission was to be a "response center" to take care of (b)(6) travel. He said that (b)(6) first opened as an adjunct to (b)(6) and then evolved into a consulting company. (b)(3) said he started consulting almost immediately upon his retirement from the Agency.

18. (C) (b)(3) advised that (b)(6) is a consulting company that responds directly to its client's requests. He said that earlier in his company's history, it did due diligence and background investigations for US companies, but now (b)(6) helps corporations with their business strategies concerning countries like China. (b)(6)

(b)(3) (b)(3) advised his customers are major US corporations, such as (b)(6)

19. (C) (b)(3) said (b)(6) has no direct contact with the Chinese government or anyone with a Chinese political party affiliation. He said he has never hired anyone with those affiliations and never will. According to (b)(3) (b)(6) hires a separate intermediary company who, in-turn, hires a Chinese investigative agency (that is not part of the Chinese government but may have employees who work for the Chinese government). He said (b)(6) works through this company using "team leaders" who handle the liaison between his company and the contracted Chinese investigative agency. According to (b)(3) the team leaders are also contract hires and not (b)(6) employees. (b)(6) said (b)(6) provides its contract team leader with (b)(6) requirements and they, in-turn, supply the requirements to the Chinese investigative agency. He said the make-up of the (b)(6) contractor team leaders is one (b)(6) employee, one (b)(6) employee, one (b)(6) employee, and one (b)(6) employee. (b)(3) said the Chinese investigative agency, in-turn, delivers its results over to the (b)(6) contractors, who then provide the information to (b)(3) (b)(6) said practice of using coordinators to orchestrate the use of a legal Chinese agency to do background work is a (b)(6) standard practice in their business, many companies do it. He said (b)(6) strength is in its ability to analyze the information and provide a report to its client.

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20. ~~(S)~~ (b)(3) said that (b)(6) "bashes" the Chinese by giving its US (b)(1) clients insight into how the Chinese are robbing them blind. (b)(3) He said, (b)(6) is accused of being Sinophobes and (b)(6) goal is to identify Chinese penetrations and to stop their threat to US interests." (b)(3) claims that (b)(6) has hurt the Chinese and neither the Agency nor the FBI has certain abilities, which (b)(6) does have, to accomplishing that task.

21. ~~(C)~~ (b)(3) said he does not remember whether he executed a Post Employment Agreement with the Agency's OGC or whether he signed a "Section 407 agreement" in accordance with the Intelligence Authorization Act of 1997. (b)(3) said he read some materials pertaining to post employment restrictions and he was familiar with post employment restrictions, but he did not recall signing any documents. (b)(3) said he did not ask for or receive any written "waivers," signed by the Executive Director regarding his business and or contact with a foreign government.

22. ~~(C)~~ (b)(3) said that since his retirement, he has neither made any communication or appearance before CIA seeking official action on behalf of a third party nor has he represented, aided, or advised a foreign government or foreign political party with the intent to influence the US government. He said he has been very strict about any post employment restrictions. (b)(3) said he is diligent regarding his post employment restrictions but he is even more concerned, and watches even more closely, the Foreign Companies Practices Act. He explained that the Foreign Companies Practices Act specifies that US companies cannot pay a foreign officers or country for favors.

CONCLUSIONS:

23. (U//~~AIUO~~) No available documents or testimony indicates, demonstrates, or validates that (b)(3)

- Made any communication or appearance before CIA seeking official action on behalf of a third party within two years of his separation.
- Aided or advised a foreign government or foreign political party with the intent to influence the US government within a year of his separation.

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- Signed a "Section 402 agreement" IAW the Intelligence Authorization Act of 1997.
- Represented or advised a foreign government or foreign political party within three years of his separation.

This case is closed.

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(b)(6)

(b)(3)
(b)(6)

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